

REMARKS

Claims 1, 2, 4-14 and 16-30 are pending in the present application.

Claims 1, 2, 4-14 and 16-30 stand rejected under 35 U.S.C. 112, first paragraph, on the basis that the Examiner contends that the previously added limitation that requires the virtual image to be formed “physically and optically behind the sixth mirror” is not disclosed in the specification. Applicant traverses this rejection for the following reasons.

Applicant has amended claims 1 and 7 to recite that the virtual image is formed by the first optical group physically on the object side of a sixth mirror and optically further along the optical beam path after the sixth mirror. The feature “physically on the object side of a sixth mirror” is clearly shown in Fig. 1 and the feature “optically further along the optical beam path after the sixth mirror” is for example disclosed in Table 2 of the specification. The virtual image has the surface number 22 which is optically further along the optical beam path after the mirror surface 20 of the sixth mirror. Since these features are clearly disclosed in the specification, the rejection under 35 U.S.C. 112 is unfounded and should be withdrawn.

Claims 1, 2, 4-14 and 16-30 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for the reasons recited by the Examiner. Applicant respectfully requests withdrawal of this rejection based on the present amendments which were entered based on the Examiner’s suggestions and comments. As a result, withdrawal of this rejection is in order and is earnestly solicited at this time.

In particular, it is disclosed in a number of passages of the present specification (e.g., paragraphs [0028]; [0031]; [0038]; [0040]; [0047] of the published application) that the first optical group forms the virtual image. Based on the foregoing passages, Applicant respectfully submits that the subject matter of the amended claims is clearly set forth with sufficient definiteness in the specification. Withdrawal of this rejection is in order.

Claims 1, 2, 4-10 and 12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Shafer in view of Takahashi. Claims 11, 13, 14 and 16-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Shafer in view of Braat.

Applicant respectfully requests withdrawal of this rejection based on the following comments.

Applicant respectfully submits that 35 U.S.C. 103(c) is applicable in the present instance since the Shafer reference is only prior art under 35 U.S.C. 102(e). Since 35 U.S.C. 103(c) is applicable, Applicant respectfully requests entry and consideration of the enclosed Declaration Pursuant to 35 U.S.C. 103(c) which has been properly executed by the Applicant.

The attached, executed Declaration attests that the subject matter that qualifies as prior art (Shafer) and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person and therefore, 35 U.S.C. 103(c) applies.

In view of the foregoing, Applicant respectfully submits that the present rejections under 35 U.S.C. 103(a) should be withdrawn since the Shafer reference *is not* prior art.

Since the Shafer reference is the primary reference and no other grounds of rejection are advanced by the Examiner, Applicant contends that based on the present amendments that overcome the 112 rejections, the claims are in condition for allowance.

Reconsideration and allowance of the present claims are earnestly solicited at this time.

Since the present amendment does not require additional searching and/or further consideration, entry of the amendment is in order.

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

By _____
Edward J. Ellis

Registration No.: 40,389
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant